

TERMED

**U.S. District Court  
Southern District of California (San Diego)  
CIVIL DOCKET FOR CASE #: 3:04-cv-02425-IEG-JFS**

MacLean v. DOD, et al  
Assigned to: Judge Irma E. Gonzalez  
Referred to: Magistrate Judge James F. Stiven  
Demand: \$0  
Case in other court: 05-55883  
Cause: 05:552 Freedom of Information Act

Date Filed: 12/06/2004  
Date Terminated: 06/07/2005  
Jury Demand: None  
Nature of Suit: 895 Freedom of  
Information Act  
Jurisdiction: U.S. Government Defendant

**Plaintiff**

**Norbert Basil MacLean, III**

represented by **Norbert Basil MacLean, III**  
4881 Cape May Avenue  
San Diego, CA 92107  
(619)758-0781  
PRO SE

**Daniel Scott Silverman**  
VENABLE LLP  
2049 Century Park East  
Suite 2100  
Los Angeles, CA 90067  
310-229-0373  
Fax: 310-229-9901  
Email: [dsilverman@venable.com](mailto:dsilverman@venable.com)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

V.

**Defendant**

**Department of Defense**

represented by **U S Attorney CV**  
U S Attorneys Office Southern District of  
California  
Civil Division  
880 Front Street  
Suite 6253  
San Diego, CA 92101  
(619)557-5662  
Fax: (619)557-7122  
Email: [Efile.dkt.civ@usdoj.gov](mailto:Efile.dkt.civ@usdoj.gov)  
**TERMINATED: 09/01/2006**  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Beth L Levine**  
U S Attorneys Office Southern District of  
California  
Civil Division  
880 Front Street  
Suite 6253  
San Diego, CA 92101  
(619)557-5662  
Fax: (619)557-7122  
Email: [efile.dkt.civ@usdoj.gov](mailto:efile.dkt.civ@usdoj.gov)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Defendant**

**United States of America Department  
of Navy**

represented by **U S Attorney CV**  
(See above for address)  
*TERMINATED: 09/01/2006*  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Beth L Levine**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

Date Filed	#	Docket Text
12/06/2004	<u>1</u>	Complaint Filed; (referred to Magistrate Judge James F. Stiven ) Receipt No/Amt of Fee: 109252,\$150.00, (Attorney Maint.) (gep) (Entered: 12/06/2004)
12/06/2004	<u>2</u>	Summons issued as to defendant DOD, defendant US Dept of Navy (gep) (Entered: 12/06/2004)
12/06/2004	<u>3</u>	Return of Service executed upon John Ashcroft on 12/6/04 (Filed as Notice of Compliance re: Service under FRCP 4(i)(1)(B)) (jah) (Entered: 12/06/2004)
12/06/2004	<u>4</u>	Return of Service executed upon US Atty for the Southern District of CA for defendant DOD, defendant US Dept of Navy on 12/6/04 (jah) (Entered: 12/07/2004)
12/16/2004	<u>5</u>	Return of Service executed upon defendant US Dept of Navy on 12/13/04 (bar) (Entered: 12/20/2004)
12/16/2004	<u>6</u>	Return of Service executed upon defendant DOD on 12/14/04 (bar) (Entered: 12/20/2004)
12/23/2004	<u>7</u>	Ex Parte Application by Defendants for extension of time to respond to Complaint and Petition for In Camera Inspection (jpp) (Entered: 12/27/2004)
12/27/2004	<u>8</u>	Plaintiff's Memorandum of Points and Authorities in Opposition to Defendants' Ex Parte Application for extension of time to respond to Complaint and Petition for In Camera Inspection [7-1] (jpp) (Entered: 12/27/2004)
12/27/2004	<u>9</u>	Notice of Motion and Motion by plaintiff Norbert Basil MacLean III; for preliminary injunction enjoining Defendants from withholding Freedom of Information Act documents ; [motion(s) referred to Judge Irma E. Gonzalez ]; motion hrg set for 01/31/05 at 10:30am (jpp) (Entered: 12/27/2004)
12/27/2004	<u>10</u>	Memorandum of points and authorities by plaintiff Norbert Basil MacLean III in support of motion for preliminary injunction enjoining Defendants from withholding Freedom of Information Act documents [9-1] (jpp) (Entered: 12/27/2004)
12/27/2004	<u>11</u>	Declaration by plaintiff Norbert Basil MacLean III re motion for preliminary injunction enjoining Defendants from withholding Freedom of Information Act documents [9-1] (jpp) (Entered: 12/27/2004)
01/03/2005	<u>12</u>	Order by Judge Irma E. Gonzalez granting dfts' ex parte application for extension of time to file answer to complaint [7-1]; answer to cmp and petition for In Camera Inspection or other pleading in lieu thereof due on or before 2/4/05 for US Dept of Navy, for DOD (dkt clerk) (Entered: 01/03/2005)
01/05/2005	<u>13</u>	Ex Parte Application by plaintiff Norbert Basil MacLean III for leave of court to conduct limited discovery (jah) (Entered: 01/06/2005)
01/05/2005	<u>14</u>	Order by Judge Irma E. Gonzalez; Plaintiff's motion for preliminary injunction enjoining Defendants from withholding Freedom of Information Act documents [9-1] is rescheduled for hearing at 11:00 on 2/28/05 before Judge Irma E. Gonzalez; Court vacates the 1/31/05 hearing date (jah) (Entered: 01/06/2005)
01/07/2005	<u>15</u>	Response (Filed as Opposition) by defendant DOD, defendant US Dept of Navy to Pla's ex parte application for leave of court to conduct discovery (jah) (Entered: 01/07/2005)

		01/10/2005)
01/07/2005	<u>16</u>	Notice by plaintiff Norbert Basil MacLean III of filing re: dft DOD releasing a portion of one document w/o redactions (jah) (Entered: 01/10/2005)
01/11/2005	<u>17</u>	Reply Memorandum by plaintiff Norbert Basil MacLean III to Dfts' opposition to ex parte application for leave of court to conduct discovery re [13-1] (jah) (Entered: 01/12/2005)
01/11/2005	<u>18</u>	Minutes: Enter Order by Magistrate Judge James F. Stiven; Court will hear oral argument on Pla's ex parte application for leave of court to conduct discovery [13-1] at 10:00 on 2/4/05 before Magistrate Judge James Stiven ; No further briefing is to be conducted (jah) (Entered: 01/12/2005)
01/11/2005	<u>19</u>	Corrected Minutes: Enter Order by Magistrate Judge James F. Stiven; Court will hear oral argument on Pla's ex parte application for leave of court to conduct discovery at 9:00 on 2/4/05 before Magistrate Judge James Stiven (jah) (Entered: 01/12/2005)
01/14/2005	<u>20</u>	Notice of Lodgment by plaintiff Norbert Basil MacLean III of original Declaration of Karen Cobb (jah) (Entered: 01/14/2005)
02/04/2005	<u>21</u>	Minutes: Enter Order by Magistrate Judge James F. Stiven; Hearing on Pla's application for leave to conduct discovery [13-1] – held; Pla shall file a supplemental pleading by 2/14/05; Tape Number: JFS04-1:0-1782 (jah) (Entered: 02/04/2005)
02/04/2005	<u>22</u>	Notice of Motion and Motion by defendant DOD, defendant US Dept of Navy to dismiss , or, for summary judgment , [motion(s) referred to Irma E. Gonzalez]; Motion hrg set for 3/28/05 at 10:30am (jah) (Entered: 02/07/2005)
02/04/2005	<u>23</u>	Memorandum of Points and Authorities by defendant DOD, defendant US Dept of Navy in support of motion to dismiss [22-1], and motion for summary judgment [22-2] (jah) (Entered: 02/07/2005)
02/07/2005	<u>24</u>	DISCREPANCY ORDER by Judge Irma E. Gonzalez accepting document: notice of appearance of counsel from plaintiff Norbert Basil MacLean III, non-compliance with local rule; No proof of service; Document is to be filed nunc pro tunc to the date received (jah) (Entered: 02/08/2005)
02/07/2005	<u>25</u>	Attorney Appearance for plaintiff Norbert Basil MacLean III; Atty Daniel S. Silverman appeared as local counsel for plaintiff; NUNC PRO TUNC 2/3/05 (jah) (Entered: 02/08/2005)
02/07/2005	<u>26</u>	Notice by plaintiff Norbert Basil MacLean III of Attorney Association (Filed as Notice of Appearance as Counsel); Atty David Greene appearing as counsel for plaintiff t/w local counsel, David S Silverman; NUNC PRO TUNC 2/3/05 (jah) (Entered: 02/08/2005)
02/11/2005	<u>27</u>	Order by Judge Irma E. Gonzalez; Court vacates the 2/8/05 hearing date re Pla's motion for preliminary injunction enjoining Defendants from withholding Freedom of Information Act documents [9-1]; Pla's motion for preliminary injunction and Govt's motion to dismiss and for summary judgment shall be heard at 10:30 on 3/28/05 before Judge Irma E. Gonzalez (jah) (Entered: 02/14/2005)
02/17/2005	<u>28</u>	DISCREPANCY ORDER by Magistrate Judge James F. Stiven accepting document: supplement to ex parte application for leave of court to conduct limited discovery from plaintiff Norbert Basil MacLean III, non-compliance with local rule; Application not on file; Document is to be filed nunc pro tunc to the date received (jah) (Entered: 02/18/2005)
02/17/2005	<u>29</u>	Supplement by plaintiff Norbert Basil MacLean III to ex parte application for leave of court to conduct limited discovery [13-1]; NUNC PRO TUNC 2/14/05 (jah) (Entered: 02/18/2005)
03/14/2005	<u>30</u>	Second Order Continuing Hearing Date by Judge Irma E. Gonzalez; Court vacates the 3/28/05 hearing date; Govt's motion to dismiss [22-1] and motion for summary judgment [22-2] and Pla's motion for preliminary injunction enjoining Defendants from withholding Freedom of Information Act documents [9-1] shall be heard at

		10:30 on 5/9/05 before Judge Irma E. Gonzalez (jah) (Entered: 03/14/2005)
03/17/2005	<u>31</u>	Order by Magistrate Judge James F. Stiven granting in part/denying in part Pla's ex parte application for leave of court to conduct limited discovery [13-1]; Court grants application as to proposed requests for admission to be propounded to US Navy nos.2-3,5 and 12, to Dept of Defense nos.5-7 and the single special interrogatory to be propounded to each dft; Pla's application denied to all other proposed requests for admission; Pla shall serve discovery requests on dfts by 3/21/05; Dfts shall serve responses on Pla by 4/4/05; Hearing on any objections will be conducted at 9:30 on 4/15/05 before Magistrate Judge Stiven; Any supplementary responses ordered by Court will be due by 4/22/05 (jah) (Entered: 03/17/2005)
04/15/2005	<u>32</u>	Minutes: Enter Order by Magistrate Judge James F. Stiven; Hearing on any objections 9:30 4/15/05 is vacated ; Order to issue (jah) (Entered: 04/18/2005)
04/15/2005	<u>33</u>	Order by Magistrate Judge James F. Stiven; Court finds Navy Request No. 6 to be beyond the scope of the March 16 Order, but finds that the Request may appropriately be propounded and orders that dft Dept of the Navy serve a substantive response, subject and w/o prejudice to Dfts' objections by 4/22/05 (Rec'd in Docketing 4/19/05) (jah) (Entered: 04/19/2005)
04/21/2005	<u>34</u>	Stipulation and Order by Judge Irma E. Gonzalez: Pla's motion for preliminary injunction [9-1] and Dfts' motion to dismiss [22-1] or for summary judgment [22-2] shall be treated by Court as cross-motions for summary judgment (jah) (Entered: 04/21/2005)
04/28/2005	<u>35</u>	DISCREPANCY ORDER by Judge Irma E. Gonzalez accepting document: reply memorandum in support of motion for preliminary injunction and declaration of Daniel S. Silverman from plaintiff Norbert Basil MacLean III, non-compliance with local rule 7.1.h or document is to be filed nunc pro tunc to the date received (jah) (Entered: 04/28/2005)
04/28/2005	<u>36</u>	Reply Memorandum of Points and Authorities by plaintiff Norbert Basil MacLean III in support of motion for preliminary injunction enjoining Defendants from withholding Freedom of Information Act documents [9-1]; NUNC PRO TUNC 4/25/05 (jah) (Entered: 04/28/2005)
04/28/2005	<u>37</u>	Declaration of Daniel S. Silverman by plaintiff Norbert Basil MacLean III re motion reply [36-1]; NUNC PRO TUNC 4/25/05 (jah) (Entered: 04/28/2005)
05/03/2005	<u>38</u>	Reply by defendant DOD, defendant US Dept of Navy to Pla's opposition to motion to dismiss [22-1], and motion for summary judgment [22-2] (jah) (Entered: 05/03/2005)
05/05/2005	<u>39</u>	Stipulation and Order by Judge Irma E. Gonzalez: Hearing re Dfts' motion to dismiss [22-1] and motion for summary judgment [22-2] and Pla's motion for preliminary injunction enjoining Defendants from withholding Freedom of Information Act documents [9-1] (to be considered as a cross-motion for summary judgment) changed to 10:00 on 5/10/05 before Judge Irma E. Gonzalez; Dft shall file reply memorandum by 12:00 noon on 5/3/05 (jah) (Entered: 05/05/2005)
05/10/2005	<u>40</u>	Minutes: Enter Order by Judge Irma E. Gonzalez; Motion for preliminary injunction enjoining Defendants from withholding Freedom of Information Act documents [9-1] is submitted; Motion to dismiss [22-1] and that the motion for summary judgment [22-2] are submitted; Court to prepare order; Court Reporter: R. Heywood (jah) (Entered: 05/11/2005)
05/12/2005	<u>41</u>	Order by Judge Irma E. Gonzalez granting in part Pla's motion for preliminary injunction enjoining Defendants from withholding Freedom of Information Act documents [9-1]; Court orders dfts to produce records 5, 12, 15, 16, 17, 18, 19, 20, 25, 26, 27, 28, 29, 30, 31 and 34 listed in Captain Eric Geiser's Vaughn Index for in camera inspection by 5/17/05 (jah) (Entered: 05/12/2005)
05/17/2005	<u>42</u>	Submission in Response by defendants DOD, US Dept of Navy to Court's Order granting in part Pla's petition for in camera review of withheld documents (jah) (Entered: 05/18/2005)

06/06/2005	<u>43</u>	Order by Judge Irma E. Gonzalez; Because the requested documents are exempt from disclosure under either section 552(b)(5), 552(b)(6), or 552(b)(7)(C), Court denies Pla's motion for summary judgment and grants Dfts' motion for summary judgment [22-2] (jah) (Entered: 06/07/2005)
06/07/2005	<u>44</u>	Clerks Judgment: Because the requested documents are exempt from disclosure under either section 552(b)(5), 552(b)(6), or 552(b)(7)(C), Court denies Pla's motion for summary judgment and grants Dfts' motion for summary judgment terminating case (jah) (Entered: 06/07/2005)
06/10/2005	<u>45</u>	Notice of appeal by plaintiff Norbert Basil MacLean III from Dist. Court decision entered on 06/07/05. Receipt No/Amt of Fee: #114464/\$255.00 [44-2] (dkt clerk) (Entered: 06/17/2005)
06/17/2005		Notice of appeal sent to Circuit Court [45-1] (dkt clerk) (Entered: 06/17/2005)
06/23/2005	<u>46</u>	Notification by Circuit Court of Appellate Docket Number [45-1] 05-55883 (dkt clerk) (Entered: 06/24/2005)
06/30/2005	<u>47</u>	Transcript Designation and Ordering Form for dates: 5/10/05 [45-1] (cag) Modified on 07/11/2005 (Entered: 07/01/2005)
07/19/2005		Reporter's Transcript of Motion hrg for the following date(s): 05/10/05 (Re: [45-1] ) Ct. Reporter: R. Heywood (dkt clerk) (Entered: 07/20/2005)
07/27/2005	<u>48</u>	Mailed Certificate of Record Transmitted to USCA [45-1] (cc: all counsel) (dkt clerk) (Entered: 07/27/2005)
08/05/2005	<u>49</u>	Acknowledgement from USCA re receipt of certificate of record (dkt clerk) (Entered: 08/09/2005)
12/12/2005	<u>50</u>	Copy of Appellate Court Order: Judicial Watch's Inc.'s motion to file an amicus curiae brief shall be referred to the merits panel for resolution, current briefing schedule to remain in effect. (dkt clerk) (Entered: 12/13/2005)
03/09/2007		Certified and Transmitted Record on Appeal (Clerk's Record 3 vol., 1 tran.) to US Court of Appeals re <u>45</u> Notice of Appeal (mxz) (Entered: 03/09/2007)
03/19/2007	<u>52</u>	NOTICE of USCA receipt of Clerk's Record (3 vol, 1 tran) re <u>45</u> Notice of Appeal filed by Norbert Basil MacLean, III. USCA Case Number 05-55883 (jxj) (Entered: 03/20/2007)
09/12/2007	<u>53</u>	USCA JUDGMENT (certified copy) Affirming the decision of the USDC, re <u>45</u> Appeal. (mkz) (Entered: 09/13/2007)
04/01/2009		Appeal Record Returned: Clerk's Record (3 Volumes, 1 Transcript) re <u>45</u> Notice of Appeal. (akr) (Entered: 04/01/2009)